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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,141	08/22/2000	Stephen F. Gross	M 6636 CC/CSAP	8795

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COGNIS CORPORATION
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EXAMINER

CARRILLO, BIBI SHARIDAN

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 09/22/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/643,141

Applicant(s)

GROSS ET AL.

Examiner

Sharidan Carrillo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-50, 53 and 54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-50, 53-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

In view of the Appeal Brief filed on 7/3/03, PROSECUTION IS HEREBY REOPENED.

A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 33-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (6172031).

Stevens teaches a method of cleaning hard surfaces using applicant's claimed cleaning composition.

In reference to claim 33, refer to col. 14, lines 1-5, col. 12, lines 45-50. In reference to components a) and b) refer to col. 4, lines 40-45, col. 3, lines 20-22; component c) refer to col. 3, lines 18-20, col. 6, lines 23-55; component d) refer to col. 3, lines 40-45, col. 10, lines 15-20 and lines 30-55; and component e) refer to col. 3, line 23.

Stevens teaches the invention substantially as claimed. Stevens fails to teach the claimed concentration ranges for the oil-soluble anionic surfactant and the water-soluble anionic surfactant. Stevens teaches one or more surfactants having a concentration of 0.001 to 25% by weight of the final composition. However, in col. 7, lines 39-50, Stevens teaches that the amount of surfactant is determined based on the need to create an effective emulsion. Surfactants are chosen for their ability to solubilize and/or emulsify contaminants to be removed, compatibilize

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the hydrophobic and hydrophilic components of the composition. The use of an appropriate surfactant mixture may also aid the separation of undesired quantities of water from the composition. In summary, Stevens teaches using a surfactant mixture that includes both the oil soluble and water soluble anionic surfactant. Stevens further teaches that it is within the level of the skilled artisan to choose the type of surfactant depending on their ability to solubilize and/or emulsify contaminants, compatibilize the hydrophilic and hydrophobic components. Stevens further teaches adjusting the amount of surfactant in order to form an emulsion.

In view of the teachings of Stevens, it would have been obvious to one having ordinary skill in the art at the time the invention was made to adjust the concentrations of the surfactants, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

In reference to claim 34, refer to col. 8, lines 10 and 23. In reference to claims 36, refer to col. 3, lines 18-20. In reference to claim 37, refer to col. 8, lines 8-10. In reference to claim 38, the limitations are met since Stevens teaches sulfates of dodecylbenzenesulfonic acid. In reference to claim 39, refer to col. 3, lines 18-20. In reference to claim 40, refer to col. 6, lines 30-40. In reference to claim 41, refer to col. 3, lines 15-17. In reference to claim 42, refer to col. 3, lines 40-45. In reference to claim 44, refer to col. 10, lines 18-20. In reference to claim 45, refer to col. 13, line 20. In reference to claim 46, refer to col. 4, lines 50-55. In reference to claims 47-48, refer to col. 3, lines 15-25.

In reference to claim 35, Stevens fails to specifically teach an isopropyl amine salt of dodecylbenzenesulfonic acid or propylene glycol n-butyl ether. However, in col. 8, lines 23-

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25, Stevens teaches alkyl amine dodecylbenzenesulfonate. It would have been within the level of one of ordinary skill in the art to have modified the method of Stevens to include isopropyl amine salt of dodecylbenzene sulfonic acid since Stevens teaches that alkyl amines can be used and isopropyl amine is an alkyl amine.

In reference to claim 43, Stevens fails to specifically teach propylene glycol n-butyl ether. However, in col. 10, lines 31-60, Stevens teaches that glycol ethers for use include without limitations propylene glycol substituted ethers. Some of the examples recited n-butyl ether. It would have been within the level of one of ordinary skill in the art to have modified the method of Stevens to include propylene glycol n-butyl ether since Stevens teaches that propylene glycol substituted ethers could be used.

5. Claims 49-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (6172031) as applied to claims 33-48 as described in paragraph 4 above, and further in view of Van Eenam (5585341).

Stevens teaches the invention substantially as claimed with the exception of cyclic ketone, specifically cyclohexanone. Van Eenam teaches that a hard surface cleaner/degreaser commonly incorporate organic solvents such as cyclohexanone (col. 3, lines 35-40, col. 4, lines 14-15, lines 44-45) in their cleaning compositions.

It would have been within the level of one of ordinary skill in the art to incorporate commonly known organic solvents in the cleaning composition, such as cyclohexanone, as taught by Van Eenam, for purposes of cleaning and or degreasing hard surfaces.

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6. Claims 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens (6172031) as applied to claims 33-48 as described in paragraph 4 above, and further in view of Cilley et al. (6180583).

Stevens teaches the invention substantially as claimed with the exception a thickening agent such as tetraalkyl ammonium bentonite (equivalently known as bentonite). It well known in the art to include additional components such as thickeners in cleaning compositions. Cilley et al. teach cleaning compositions for cleaning hard surfaces and removing greasing comprising thickeners. In col. 6, line 12-15, and line 35, Cilley et al. teach adding a thickener in the composition to promote adhesion of the composition to the surface being cleansed. Commonly known thickeners include bentonite.

It would have been obvious to a person of ordinary skill in the art to have modified the method of Stevens to include adding a thickener, such as bentonite, as taught by Cilley et al., for purposes to promoting adhesion of the composition to the surface being cleansed.

Response to Arguments

7. The rejection of claim 46 under 112, second paragraph is withdrawn as previously indicated in the Advisory Action of 4/10/03.

8. The rejection of the claims as being anticipated by Stevens is withdrawn. A new grounds of rejection is made as previously described above.

9. Applicant argues that Stevens fails to teach a terpene free composition. Applicant's arguments are unpersuasive. Applicant is directed to col. 3, lines 40-45 and col. 12, lines 45-50.

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10. Applicant argues that Stevens fails to teach the claimed concentration ranges for the water and oil-soluble surfactants. Although the claims are not anticipated, applicant's arguments are unpersuasive for the reasons previously recited above.

11. Applicant argues that the examiner is giving a self-serving interpretation to the term "optional". Applicant's arguments are unpersuasive since the broad disclosure of a reference is relevant prior art for all it would have suggested to those of ordinary skill. Clearly, Stevens teaches that the composition can have 0% terpene. Stevens further teaches the composition comprising one of more surfactants, wherein the surfactants include combinations of both oil-soluble and water-soluble anionic surfactants.

12. Applicant argues that the reference is directed to cleaning textiles and not hard surfaces. Applicant is directed to col. 14, lines 1-2.

13. In reference to claims 35 and 43, applicant argues that it would not have been obvious to modify the reference of Stevens to include isopropyl amine salt of dodecylbenzene sulfonic acid. Applicant's arguments are unpersuasive since Stevens teaches the genus alkyl amine dodecylbenzenesulfonate and isopropyl amine is a species of the genus taught by Stevens. One of ordinary skill in the art would have envisaged isopropyl amine as a member of the genus alkylamine dodecylbenzene sulfonate. In reference to claim 43, similar arguments apply. Also refer to col. 10, lines 39-56.

14. In reference to claims 49-50 and 53-54, applicant has not clearly presented arguments against the prima facie obvious established by the teachings of the secondary references.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharidan Carrillo whose telephone number is 703-308-1876.

The examiner can normally be reached on Monday-Friday, 6:00a.m-2:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy P. Gulakowski can be reached on 703-308-4333. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7719 for regular communications and 703-305-7719 for After Final communications.

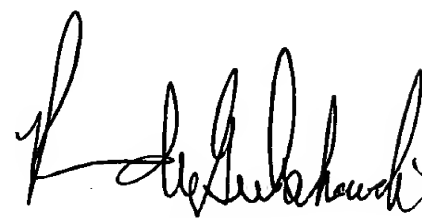
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Sharidan Carrillo
Primary Examiner
Art Unit 1746

bsc
September 15, 2003



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